

IN RE: AMENDMENT OF IDAHO )  
APPELLATE RULES (I.A.R.) 17 (n), )  
27(d) and 31 )  
\_\_\_\_\_ )

ORDER AMENDING  
RULES

The Court having considered proposals to amend the content and substance of the Idaho Appellate Rules;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Appellate Rules, as they appear in the volume published by the Idaho Code Commission be, and they are hereby, amended as follows:

1. That Rule 17(n) be, and the same is hereby, amended to read as follows:

**Rule 17. Notice of appeal—Contents.**

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(n) **Form.** The notice of appeal shall be in substantially the following form:

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5. (a) Is a reporter's transcript requested?

(b) The appellant requests the preparation of the following portions of the reporter's transcript: e.g.

(Specific proceedings identified by date and title of hearing if less than a standard transcript is being requested)

or (The ~~entire~~ reporter's standard transcript as defined in Rule 25(a),(c), I.A.R.)

or (The ~~entire~~ reporter's standard transcript as defined in Rule 25(c), I.A.R. supplemented by the following:)

(Voir dire examination of jury)

(Closing arguments of counsel)

(The following reporter's partial transcript:)

(The testimony of witness "X")  
(Conferences on requested instructions)  
(Instructions verbally given by court)

2. That Rule 27(d) be, and the same is hereby, REPEALED and the following ADOPTED to read as follows:

**Rule 27. Clerk's or agency's record—Number—Clerk's fees—Payment of estimated fees—Time for preparation—Waiver of clerk's fee.**

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(d) **Time for Preparation.** The clerk of the district court or administrative agency shall prepare the clerk's or agency's record and have it ready for service on the parties within 30 days of the date of the filing of the notice of appeal. The clerk shall retain the copies of the clerk's or agency's record until the reporter's transcript, if any, is finished and thereafter cause the same to be settled and forwarded to the Supreme Court as provided by Rule 29. An extension of time for preparation of the record may be obtained by filing a motion for extension of time with the Idaho Supreme Court at least five days before the record is due unless good cause is shown for the failure to timely file a motion. The motion for extension of time shall be on a form approved by the Supreme Court.

3. That Rule 31 be, and the same is hereby, amended to read as follows:

**Rule 31. Exhibits, recordings and documents.**

(a) **Lodging with Supreme Court.** The clerk of the district court or administrative agency shall lodge all of the following exhibits, recordings and documents, with the Supreme Court:

(1) Copies of all documents, x-rays, charts and pictures offered or admitted as exhibits in a trial or hearing; provided, All other exhibits shall be retained by the clerk of the district court or administrative agency, unless otherwise ordered by the Supreme Court; provided, further, in death penalty cases the clerk shall forward to the Supreme Court all exhibits offered or admitted, unless otherwise ordered by the Supreme Court. The clerk shall forward to the Supreme Court photographs of all other exhibits in death penalty cases. Upon the request of a party in other cases, the clerk shall forward to the Supreme Court photographs of designated exhibits.

(2) All records and transcripts filed with the district court or administrative agency.

(3) All transcripts from the magistrate's division of the district court.

(4) All audio and audio-visual recordings offered or played during the proceedings.

(b) **Documentary Exhibits.** In any criminal case where a documentary exhibit, including a pre-sentence report, is transmitted to the Supreme Court for use in an appellate proceeding, the district court shall serve a copy of the documentary exhibit on the attorney general and on appellate counsel for the defendant, subject to the confidentiality provisions of I.C.A.R. 32. However, pictures or depictions of child pornography that are separately identified pursuant to I.C.R. 32 (e)(1) shall not be transmitted to the parties or the Supreme Court unless specifically requested.

(c) **Certificate of Clerk or Secretary.** The clerk, secretary, or the officer responsible for collecting exhibits offered or admitted at the trial or hearing shall file a certificate with the Supreme Court certifying the exhibits, recordings and copies of documents which have been lodged with the Supreme Court, specifically identifying each item lodged, and listing and describing those exhibits which are retained by the clerk or secretary. In the event there are no exhibits to be lodged with the Supreme Court, the certificate shall specifically state that no exhibits were lodged.

(d) **Time for Lodging.** Unless otherwise directed by the Supreme Court, the above exhibits, recordings and documents shall be lodged with the Supreme Court at or before the time that the reporter's transcript and clerk's record are lodged with the Supreme Court.

(e) **Disposition of Exhibits.** Unless otherwise ordered by the Supreme Court under Rule 31.1, the Supreme Court will retain the exhibits until determination of the appeal and then return all ~~such~~ original exhibits ~~except transcripts to the clerk of the trial court or the secretary of the administrative agency.~~

IT IS FURTHER ORDERED, that this order and these amendments shall be effective the first day of July, 2008.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Appellate Rules.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 7th day of April, 2008.

By Order of the Supreme Court

\_\_\_\_\_/s/\_\_\_\_\_  
Daniel T. Eismann  
Chief Justice

ATTEST:\_\_\_\_\_/s/\_\_\_\_\_  
Clerk